IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.8.2007

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THE HON'BLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.28002 of 2007

P.Suyambu Narayana Dass .. Petitioner

vs.

1. Special Commissioner and
   Transport Commissioner
   Chepauk, Chennai - 600 005.

2. Regional Transport Officer,
   Nagercoil, Kanyakumari District .. Respondents

This writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the order passed by the second respondent, Regional Transport Officer in Kanyakumari District at Nagercoil in his proceedings Na.Ka.No.22226/A4/2007, dated 26.6.2007, and the order of the first respondent, Special Commissioner and Transport Commissioner, Chepauk, Chennai-5, in his proceedings R.No.H1/41844/07, dated 31.7.2007, quash the same and to further direct the respondent to condone the delay in filing the application for renewing the licence and renew the licence of the petitioner's Chennai Motor Driving Centre at No.33/37A, Main Road, Eathamozhy & Post, Kanyakumari District.

For petitioner : Mr.V.Gangatharan
For respondents : Mr.A.Arumugam
Additional Government Pleader

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O R D E R

Mr.A.Arumugam, the learned Additional Government Pleader, takes notice for the respondents.

2. With the consent of the learned counsels appearing on either side, the writ petition itself is taken up for final

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disposal.

3. It is submitted by the petitioner that he is running a driving school for Light Motor vehicle at No.33/37A, Main Road, Eathamozhi and P.O., Kanyakumari District, in the name of Chennai Motor Driving Centre. The petitioner has been running the said driving school, from 8.7.2002 to 7.7.2007, with the permission of the Licensing Authority, Kanyakumari District at Nagercoil.

4. It is further submitted that the petitioner had been duly authorised by the authority concerned to run the driving school and he had been granted licence, on 6.7.2002. It was valid for a period of five years, as provided in Rule 25 of The Central Motor Vehicles Rules, 1989, (hereinafter referred to as "the Act"). According to Rule 25 of the Act, an application, for renewal of the licence in Form 13, ought to be made not less than 60 days before the date of its expiry. However, since the petitioner was unwell he could not file an application in Form 13 for renewal of the licence, in accordance with the provisions of Rule 25 of the Act. Since there was a delay of 29 days in filing the renewal application by the petitioner, the second respondent had rejected the renewal application by her proceedings in Na.Ka.No.22226/A4/2007, dated 26.6.2007. Even though the petitioner had resubmitted the renewal application, along with the medical certificate, the second respondent had again rejected the renewal application, on 9.7.2007.

5. Challenging the order of rejection, the petitioner had filed an appeal before the first respondent, on 17.7.2007. The first respondent had rejected the appeal in proceedings R.No.H1/41844/07, dated 31.7.2007, stating that there is no provision in The Central Motor Vehicle Rules, 1989, to entertain the application of the petitioner for renewal, as it was not filed within the stipulated time, as provided under Rule 25 of the Act.

6. Heard Mr.V.Gangatharan, the learned counsel appearing for the petitioner as well as Mr.A.Arumugam, the learned Additional Government Pleader appearing on behalf of the respondents.

7. The learned counsel appearing for the petitioner had placed before this Court an unreported decision of this Court, dated 25.7.2007, made in W.P.No.25174 of 2007, wherein, in similar circumstances, the learned Single Judge had condoned the delay caused by the petitioner therein in filing the renewal application and directed the authority to consider the application, after referring to the decision of the Division

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Bench of this Court, dated 2.8.2005, made in W.A.No.318 of 2005, wherein the Division Bench had passed a similar order.

8. The learned Additional Government Pleader had not refuted the claims of the petitioner.

9. In such circumstances, the delay of 29 days in filing the renewal application by the petitioner is condoned. The impugned orders are set aside and the second respondent is directed to consider the renewal application of the petitioner, dated 6.6.2007, on merits and in accordance with law, and pass appropriate orders thereon, within a period of four weeks from the date of receipt of a copy of this order.

10. With the above direction, the writ petition is allowed. No costs. Consequently, connected M.P.Nos.1 and 2 of 2007 are closed.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To:

1. The Special Commissioner and
   Transport Commissioner
   Chepauk, Chennai - 600 005.

2. The Regional Transport Officer,
   Nagercoil, Kanyakumari District.

+1cc to Mr.V.Gangatharan, Advocate Sr 53578
+1cc to the Govt. Pleader SR 53941

SGL (CO)
km/31.8.

W.P.No.28002 of 2007

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